

MDR Tracking Number: M5-05-0410-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 9-28-04.

The following disputed date of service was withdrawn by the requestor on 11/10/04 and therefore will not be considered in this review:
CPT code 99080-73 for date of service 12/18/03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The chiropractic manipulative treatments rendered from 10/17/03 through 4/06/04 **were found** to be medically necessary. The office visits, mechanical traction, massage, supplies and materials, diathermy, and unlisted therapeutic procedures from 10/17/03 through 4/06/04 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 10/17/03 through 4/06/04 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 24th day of November 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc
Enclosure: IRO decision

November 22, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-05-0410-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear:

____ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ____ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Clinical History:

This patient underwent extensive physical medicine treatments after sustaining an injury at work on ____ in which he injured his mid and low back.

Disputed Services:

Office visits, mechanical traction, chiropractic manipulative treatment-spinal, massage, supplies & materials, diathermy, unlisted therapeutic procedures during the period of 10/17/03 thru – 04/06/04.

Decision:

The reviewer partially disagrees with the determination of the insurance carrier and is of the opinion that chiropractic manipulative treatment (98940) was medically necessary. All other treatment, procedures, equipment and examinations in dispute as stated above were not medically necessary in this case.

Rationale:

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, there is no documentation of prior objective or functional improvement in this patient's condition and no evidence of a change of treatment plan to justify additional treatment in the absence of positive response to prior treatment. The claimant received approximately 63 physical medicine treatments from the date of injury until 10/22/02. Those treatments were unsuccessful and did not meet statutory requirements¹ for medical necessity since the patient did not obtain relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to employment. In fact, the treatments were so unsuccessful that a chronic pain management program was recommended by the provider after the treatments were completed. Therefore, the medical necessity of repeating past unsuccessful treatments – exacerbations or not – is not supported.

The treatment plan changed during the disputed time frame (10/17/03) when the provider finally began performing spinal manipulation to the lumbar spine. According to the AHCPR² guidelines, spinal manipulation was the only treatment that could relieve symptoms, increase function and hasten recovery for adults suffering from acute low back pain. While long overdue, a proper regimen³ of this recommended form of treatment was therefore indicated.

¹ Texas Labor Code 408.021

² Bigos S., Bowyer O., Braen G., et al. Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14. AHCPR Publication No. 95-0642. Rockville, MD: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services. December, 1994.

³ Haas M, Group E, Kraemer DF. Dose-response for chiropractic care of chronic low back pain. Spine J. 2004 Sep-Oct;4(5):574-83. "There was a positive, clinically important effect of the number of chiropractic treatments for chronic low back pain on pain intensity and disability at 4 weeks. Relief was substantial for patients receiving care 3 to 4 times per week for 3 weeks."